

## **Sponsorship: A Fair Cut?**

The distinct whir of a sewing machine joined the twin spires, mint juleps and the emotive strains of “My Old Kentucky Home” on May 1, 2004. Five jockeys had just won a landmark legal battle that allowed them to wear logos and a Jockey’s Guild patch on their breeches. And with the hours being ticked off to the start of America’s most distinguished horse race, the US District Judge’s decision prompted the Kentucky Horse Racing Association to announce that it would allow all jockeys – not just the five who brought the action - to wear advertising in the big race.

Within the time it took for Smarty Jones to sweep the Derby and Preakness, only to have Birdstone rob him of the Triple Crown in the final strides of the Belmont, a jockey would sport a logo in the final race of the Series that would secure him an additional US\$250,000 in earnings (the deal with Infone believed to be the highest-ever sponsorship deal for a jockey in a horse race) and the US Thoroughbred Owners and Breeders Association would hire an attorney to evaluate the legal rights of owners related to jockey advertising and also convene a high profile committee to study the issue.

The fundamental arguments raised in this debate are not US-centric. Indeed, they refer as much to the Australian thoroughbred industry as to America or to the rest of the world. And how the debate is played out north of our Shores will have, in time, clear implications for the management of the issue closer to home.

It would be trite to suggest that this year’s Kentucky Derby will be remembered solely for the results of a legal wrangle. Indeed, memories of 2004 will centre on the remarkable story of a chestnut colt who defied bloodlines that hadn’t earned his breeders \$4M in a yearling ring, a cracked skull, a trainer/ jockey combination that had never hit the ‘big time’ before, and a town of supporters better known for a brand of cream cheese than producing Triple Crown contenders. But the mutterings from various thoroughbred connections about “that other story” were audible and not always content. The question was simple: who should own those white breeches and under shirt of the rider? The owner? The race club? The jockey? Or the corporate sponsor? It was a situation far removed from the scene at the English Jockey Club in 1762 when colors were first introduced for jockeys to designate the owner of each horse. The leaders of the day

could hardly have imagined that almost 250 years later future generations of owners would be battling over commercial endorsements for the same.

The commercial endorsement debate is not new. Neither is the law behind it. Prior to the Kentucky ruling, out of 50 US states only 4 - New York, California, Florida and Maryland - allowed jockeys to wear advertising and a Guild patch. Maryland had additional provisions that stated that a jockey had to first have the approval of the horse's owner, trainer and race track.

The advertising itself is regulated by an additional set of 'house rules' imposed by each race club. The size of the advertising must also comply to set standards and jockeys are not to sell space on their leg or neckwear to "bail bondsmen, cash checking and cash advance services and high risk lending services", "casinos or gaming companies or any company that conducts telephone or Internet wagering", anything "inappropriate, in poor taste or deleterious to the track's image" or anything that competes with a race's official or affiliate sponsors.

In England or Europe the position is stricter, advertising being banned outright. Hall of Fame rider Gary Stevens therefore clashed with a French Galop official after Stevens wore French and American flag decals on his pants in May of this year. Under the French rule there is no differential between advertising and any other kind of symbol.

In Australia, Victoria is currently the only Australian State which has allowed advertising (on the rear waistband of jockey's pants given the high visibility of this area of clothing during a race). But this deal has not centered on commercial endorsements. Instead, the National Jockey's Trust is the beneficiary of the deal, the aim being to raise awareness of the 240 deaths, the disturbing rate of at least two victims of paralysis per annum, and the large number of accidents that render a jockey incapable of returning to the saddle.

Advertising in the State of New South Wales (NSW) is strictly prohibited so as to protect existing race club sponsorship. It was small wonder then that jockey Corey Brown hit the headlines in May when it was revealed that he had been in discussion with Colin Tidy, Sydney's leading rails book maker about possible sponsorship options. Racing

NSW chief Steward Ray Murrphy was quoted in the *Sunday Telegraph* on May 2 as saying "I told Corey that he must have been hit in the head by a surf board when he was in Bali holidaying ... I can assure you, stewards will vigorously oppose any sponsorship deal between a jockey and a bookmaker."

Despite this, a number of jockeys have reportedly briefed a high profile Sydney lawyer to explore the issue in greater depth.

The arguments for and against advertising are polarized as follows: Traditionalists argue that allowing commercial endorsement on a jockey's breeches and/or collar is synonymous to allowing a brothel to sponsor an altar in a cathedral. They fear jockeys will become human billboards and state that advertising not only increases the risk of corruption but the presence of ads or other patches could hamper racing officials' ability to determine a winner in a tight finish or whether a foul had been committed. Supporters, on the other hand, argue that advertising merely equates racing with other high profile sports and compensates riders for what is inherently a high risk sport with average low earnings.

Jockeys do not have the easiest of career paths. The majority subject their bodies to tortuous starvation rituals to make weight, they live with the ever present risk of injury or death and, should they not win, they face indifferent earnings highlighted by those jockeys who finished out of the money in this year's Derby who pocketed just US\$56 each. (The riding fees in Australia range from \$100 per ride in South Australia and Western Australia to \$109 in Tasmania, \$117.80 in New South Wales; \$119.15 in Victoria; and from September 1 of this year, \$117 in Queensland).

When the same group are then tempted with corporate advertising to the tune of US\$30,000 for one race, annual sponsorship fees based on performance, or per ride fees based on percentage of prize money won you can start to appreciate their dilemma.

Whilst most owners would agree that horse and jockey are exceptional athletes, an equal number would argue that without the people who pay the bills there would be no racing. The logic is irrefutable and to add weight to an owner's plight there are volumes of statistics to support the fact that the overwhelming majority of owners fail to break

even let alone profit from their thoroughbred interests. In a recent submission to Racing NSW's Strategic Planning Committee for example, NSW Racehorse Owners Association president Rob Albon stated that "The greatest threat to a sustainable future for racing in NSW is inadequate returns to owners." Backing his statement was Racing NSW chief executive Peter V'Landys who has identified a collective deficit borne by owners of a staggering \$100 million per year.

Whilst the figures are sobering, an owner's argument as to the role of a jockey in a race potentially borders on a chicken and egg analysis. Certainly owners are integral to the process but equally the desire to secure the "right" jockey for a mount suggests that the rider is far more integral to an owner's chances of actually winning money (therefore making a profit from their investment) than many give a jockey credit for.

The tension between owners and jockeys can perhaps be traced to the 18<sup>th</sup> century view of the status of a jockey in this unique relationship. In an unpublished thesis written in the late 1980's, author Dr Paull Khan (now director of Weatherbys) reports on the interesting historical phenomenon whereby the status of the people connected with a horse has always been in inverse correlation to the amount of contact such people actually have with the horse at the track. Thus, at the bottom of the pecking order are the stable hands, then the jockey, the trainer and finally the owner.

In a landmark anthropological study titled *The Racing Tribe* (2002), researcher Kate Fox reports that whilst many owners and trainers continue to rely on this 18<sup>th</sup> century view, the reality is in fact quite different. She writes:

"[Jockeys] may not have much official, political power: they are clearly required to obey orders and observe traditional ritual practices, and there are significant restrictions and controls on their behavior. Yet they are none the less an elite, whose specialist talents and abilities have in many ways a higher value than class, wealth or authority. They are more famous and more widely admired than those who employ them."

Meanwhile another layer of control enters the debate - this time the race clubs which work diligently to entice corporate sponsors to their tracks in exchange for naming and logo rights on colorful billboards, starting gates, race books, paddock lawns, marquees,

race rails, saddle blankets, strappers' aprons etc. In their ever widening deck of advertising opportunities they also have available to them the more recent phenomenon of virtual advertising – the wonders of technology being able to superimpose sponsors names over the entire home stretch, beaming the resultant images to the at-home TV audience. Whilst corporate sponsorship boosts prize money, allowing advertising for some but not all does seem to enforce a double standard. As stated by the Judge in the recent Kentucky decision "it's hard to make a distinction between a logo on a jockey's silks and a corporate ad at Churchill Downs for the Kentucky Derby ... There's commercialism all over the racetrack. You can't have one regulation because you're a jockey and one regulation for a track"

Multiple advertisers do, however, introduce the thorny issue of ambush marketing. Despite the guidelines, the first case of 'ambush marketing' reared its head during the Kentucky Derby after two jockeys wore the logo of a rival sponsor of NetJets (a marketing partner of the NTRA & Breeders' Cup Ltd). Similarly, Elliott's initial request to wear a Ford logo in the Belmont was denied by the New York Racing Association, because it conflicted with the track's advertising from Dodge.

Ambush marketing is not new to high profile sport (consider the example of Adidas sponsoring Wimbledon yet all number of players wearing clothing covered in Nike logos). In light of the issues the NRTA "has fast-tracked [the issue of] jockey advertising" citing the need to "establish guidelines that would be beneficial to racetracks, horse owners, jockey representatives & sponsors, while also protecting the rights of existing sponsors".

The need for these guidelines becomes even more pressing when one considers the comment from Stewart's advertising representative, Kelly Wietsma of Equisponse, when Stewart's original sponsor - Ford - was rejected by the NYRA on the grounds that it clashed with an existing sponsor, Dodge. Wietsma was quoted in the *Philadelphia Enquirer* (on June 16) as saying:

"At five o'clock, the day before the Belmont, [the] NYRA shot [the Ford logo] down," Wietsma said. "There was talk about Stewart doing it anyway. We had a lawyer who was ready to get an emergency restraining order in the middle of the night. And all the other jockeys said they would have supported [Elliott] if [officials] tried to take him off the

tracks [for wearing a competitor's logo]. But we decided that because it was such a big event, we didn't want to take anything away from it or risk Stewart having a suspension."

Her comments demonstrate all too clearly how easily the law can be manipulated in these situations to shield positions and escalate grievances rather than allowing time and open debate to negotiate solutions that meet the needs of all interested parties.

Meanwhile, the jockeys rely on one final argument - that being that racing should be allowed to wrest free of the chains of tradition that bind it and join the ranks of 'modern sport' as we currently know it. The portrayal of various sports has changed inexorably in recent decades. Organizers are constantly challenged to keep the fans they have and attract new ones to ensure the continuation of the sport. One only needs to look at NASCAR, golf, baseball and tennis to see corporate endorsements as the root of their resurgence. Many jockeys believe racing faces a similar opportunity. As Jerry Bailey reported to the *Washington Post* in April: "This means new revenues from different sponsors who will have an interest in horse racing in a way that they haven't before. The owners have an opportunity to make more money, and they supply the horses and run our game. It's good for our whole industry."

Bailey's comments touch on weighty issues – ethical and financial - in a sport heavily reliant on publicity and ongoing investment. An estimated 11.9 million Americans watched the Kentucky Derby on TV in 2003 and about 17 million people tuned-in in 2004, the second-biggest audience since 19 million tuned-in for the 1992 Derby. A marketer's dream. But did the corporate advertising on jockey breeches get the coverage that some expected? And did (as some opponents suggested) the corporate advertisers encourage broadcasters to purposefully position their coverage/camera positions to maximize exposure of certain jockeys?

Joyce Julius and Associates (USA), a research company that evaluates sponsorship deals, reported that in this year's Preakness Stakes only two logos, TrimSpa and Wrangler received clear and in focus exposure for 21 seconds during NBC's broadcast of the race. The time had an exposure value of US\$80,500. The winning jockey, Stewart Elliott did not wear advertising during the Preakness. If he had his on-screen time would have been worth up to US\$600,000 to the advertisers. (Of note, Elliott did wear advertising during his ride in the Kentucky Derby. He reportedly donated his sponsorship fees to the colt's stable hands. Stewart also benefited from a lucrative

quarter of a million dollar deal to wear the Infone logo during his ride on Smarty Jones in the Belmont which was reported to generate national TV exposure worth \$834,160. Most of that came from Elliott's T-shirt in a pre-race interview).

Ultimately, whilst analyzing benefits people also need to pause and consider respect for tradition. Indeed, Oscar Wilde once said: "A cynic is a man who knows the price of everything and the value of nothing". Despite this, racing will only benefit if it is able to move beyond 18th century views of traditional hierarchies to examine new sponsorship opportunities that will allow the sport the injection of life it so desperately needs to continue to attract people to invest and work within it. The key is proper consultation, unbiased reporting, and parties willing to concede that the best result will inevitably be a division of any resultant sponsorship spoils. If this occurs, the debate over advertising on jockey's breeches/collars may assist in realigning misshapen views on the role and worth of today's jockey whilst also contributing necessary funds to those who fund the horses they ride and the tracks and the clubs that host them.

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